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State Intellectual Property Office of P.R.C

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Filing Number: 03821633.7	

Applicant: INNOTECH PTY LTD
Invention Title: COMMUNICATION APPARATUS AND HELMET

NOTIFICATION OF SECOND OFFICE ACTION

- ☒ The further examination is conducted on the basis of the Response submitted on May 26, 2008 by the applicant to the 1st Office Action.
☐ The further examination is conducted on the basis of the reexamination decision made on ____ by the Patent Reexamination Board.
- ☐ The amendments to the application documents submitted on _____, do not meet the requirement of Paragraph 3 of Rule 51 of the Implementing Regulations of the China Patent Law.
- The further examination is conducted on the basis of the following application documents:
☐ Amended documents enclosed with the response.
☒ Application documents covered in the preceding Office Action and amended documents enclosed with the response.
☐ Application documents covered in the preceding Office Action.
☐ Application documents determined in the reexamination decision.
- ☐ No new reference is cited in the notification.
☒ The following references are cited in the notification (the reference No. will be used in the further procedure of examination) :

Code	Reference No. or Title	Publication Date (or Filing Date of a Conflicting Application)
1	US6298249B1	October 2, 2001
2	CN86108791A	June 22, 1988
3	CN2070556U	February 6, 1991

5. Conclusive opinion:
- ☐ regarding the Description

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- ☐ the content of the application belongs to the scope of Article 5 of the China Patent Law, which cannot be granted.
- ☐ the description is unconfornity with the provisions of Paragraph 3 of Article 26 of the China Patent Law.
- ☐ the amendment of the Description is unconfornity with the provisions of Article 33 of the China Patent Law.
- ☐ the presentation manner of the description is unconfornity with Rule 18 of the Implementing Regulations of the China Patent Law.
- ☒ regarding the Claims
 - ☐ Claims___do not possess the novelty under Paragraph 2 of Article 22 of the China Patent Law.
 - ☒ Claims 1-7, 9, 10-13 do not possess the inventiveness under Paragraph 3 of Article 22 of the China Patent Law.
 - ☐ Claims___do not possess the practical applicability under Paragraph 4 of Article 22 of the China Patent Law.
 - ☐ Claims___fall in the scope of Article 25 of the Patent Law, which can not be granted.
 - ☐ Claims___do not meet the requirement of Paragraph 4 of Article 26 of the China Patent Law.
 - ☐ Claims___do not meet the requirement of Paragraph 1 of Article 31 of the China Patent Law.
 - ☐ Claims___do not meet the requirement of Article 33 of the China Patent Law.
 - ☐ Claims___do not comply with the interpretation of invention under Paragraph 1 of Rule 2 of the Implementing Regulations of the China Patent Law.
 - ☐ Claims___do not meet the requirement of Paragraph 1 of Rule 13 of the Implementing Regulations of the China Patent Law.
 - ☒ Claims 5, 19, 20 do not meet the requirements of Rule 20 of the Implementing Regulations of the China Patent Law.
 - ☐ Claims___do not meet the requirements of Rule 21 of the Implementing Regulations of the China Patent Law.
 - ☐ Claims___do not meet the requirements of Rule 22 of the Implementing Regulations of the China Patent Law.
 - ☐ Claims___do not meet the requirements of Rule 23 of the Implementing Regulations of the China Patent Law.
 - ☐ Divisional application does not meet the requirements of Paragraph 1 of Rule 43 of the Implementing Regulations of the China Patent Law.

Please refer to the text of the notification in detail for the above.

6. Based on the above conclusive opinion, the examiner points out that

- ☐ applicant should amend the application documents according to the requirements of the text of the notification.
- ☒ applicant should state the reason that the application may be granted in his observation and amend the application documents according to the teaching of the text of the notification, otherwise, the application may not be granted.
- ☐ no any substantive contents to be granted are presented in the application. If the applicant does not submit his observation or his observation is not reasonable, the application will be rejected.

7. Following items shall come to applicant's attention:

- (1) According to Article 37 of the China Patent Law, applicant should submit his observation within 2 months from the date he receives the notification. If, without any justified reason, the time limit for making a response is not met, the application will be deemed to be withdrawn.
- (2) The amendments to the application documents should meet the requirements of Article 33 of the China Patent Law and of Rule 51 thereof. The amendment text should be submitted in two copies and the amending manner should comply with the relevant regulations of the Examination Guide.
- (3) The observation and / or amendment documents should be mailed to or submitted directly to the Receiving Section of the China Patent Office, otherwise, the submitted documents have no legal effect.
- (4) The applicant and / or attorney may not meet the examiner if an appointment has not been made.

8. The text of this notification consists of 3 pages, including the following annexes:

☒ 11 page(s) of 1 copy(ies) of the cited reference.

☐ _____

Second Office Action

Application Number: 03821633.7

The applicant submitted the Observation and the amended specification on May 26, 2008 to make a response to the First Office Action (OA1). The examiner's comments upon further examination of the present application based on the above-mentioned documents are as follows:

1. Claim 1 seeks to protect a communication apparatus. D1 (US6298249B1) discloses a radio interface apparatus in a helmet, which belongs to the same technical field as the present application, and more particularly D1 discloses the technical features as follows: the radio interface apparatus (equivalent to the communication apparatus in claim 1) comprises a speaker (equivalent to the speaker enclosure in claim 1) and a microphone (equivalent to the vibration conduction microphone in claim 1), which are mounted on the belt-like nape device (equivalent to the support structure in claim 1) of the helmet (equivalent to the safety helmet in claim 1), so that the microphone comes into contact with the rear of the wearer's head, and the speaker is located close to the wearer's ear (please refer to columns 3-5 in the description and Figs.1-2 of D1). As compared with the D1, the distinguishing technical feature of claim 1 is that "the speaker enclosure comes into contact with a rear of a wearer's head".

D3 (CN2070556U) discloses a multifunctional helmet with dialogue function, which belongs to the same technical field as the present application, and more particularly D3 discloses the technical features as follows: a speaker is located in a lower-rear portion within the helmet, and no earphone is disposed at an ear-hole portion (please refer to page 6 in the description and the drawings of D3). Thus it can be seen that the above distinguishing technical feature of claim 1 over D1 is disclosed in D3, and the function of the above technical feature in D3 is the same as that in the present application for solving the technical problem, that is, to transmit a voice. Therefore, a person skilled in the art is capable of applying the above distinguishing technical feature to D1 according to the technical teachings of D3, so as to draw the technical solution of claim 1. Therefore, when compared with D1 and D3, claim 1 neither has prominent substantive features nor represents a notable progress, and is rejected under Paragraph 3 of Article 22 of the China Patent Law for failing to possess inventiveness.

2. Claim 2 is dependent on claim 1, the additional technical feature of claim 2 is disclosed in D1 (please refer to the comments on claim 1). Therefore, claim 2 is rejected under Paragraph 3 of Article 22 of the China Patent Law for failing

to possess inventiveness.

3. Claim 3 is dependent on claim 1. D2 (CN86108791A) discloses a communication system, which belongs to the same technical field as the present application, and more particularly D2 discloses the technical features as follows: the speaker and the microphone of the communication system are disposed in a water-proof case (please refer to page 8 in the description and Figs.3 and 4 of D2), which means that they are waterproof. Thus D2 discloses the additional technical feature of claim 3, and the function of the above technical feature in D2 is the same as that in present application. Therefore, a person skilled in the art is capable of applying the additional technical feature of claim 3 to D1 according to the technical teachings of D2. Therefore, claim 3 neither has prominent substantive features nor represents a notable progress, and is rejected under Paragraph 3 of Article 22 of the China Patent Law for failing to possess inventiveness.

4. Claim 4 seeks to protect a helmet. D1 (US6298249B1) discloses a radio interface apparatus in a helmet (equivalent to the safety helmet in claim 4), which belongs to the same technical field as the present application, and more particularly D1 discloses the technical features as follows: the radio interface apparatus (equivalent to the communication apparatus in claim 4) comprises a speaker (equivalent to the speaker enclosure in claim 4) and a microphone (equivalent to the vibration conduction microphone in claim 4), which are mounted on the belt-like nape device (equivalent to the support structure) of the helmet (equivalent to the safety helmet in claim 4), so that the microphone comes into contact with the rear of the wearer's head, and the speaker is located close to the wearer's ear (please refer to columns 3-5 in the description and Figs.1-2 of D1). As compared with the D1, the distinguishing technical feature of claim 4 is that "the speaker enclosure comes into contact with a rear of the wearer's head".

D3 (CN2070556U) discloses a multifunctional helmet with dialogue function, which belongs to the same technical field as the present application, and more particularly D3 discloses the technical features as follows: a speaker is located in a lower-rear portion within the helmet, and no earphone is disposed at an ear-hole portion (please refer to page 6 in the description of D3). Thus it can be seen the above distinguishing technical feature of claim 4 over D1 is disclosed in D3, and the function of the above technical feature in D3 is the same as that in the present application for solving the technical problem, that is, to transmit a voice. Therefore, a person skilled in the art is capable of applying the above distinguishing technical feature to D1 according to the technical teachings of D3, so as to draw the technical solution of claim 4. Therefore, when compared with D1 and D3, claim 4 neither has prominent substantive features nor represents a notable progress, and is rejected under Paragraph 3 of Article 22

of the China Patent Law for failing to possess inventiveness.

5. Claim 5 seeks to protect a helmet mountable communications apparatus. D1 (US6298249B1) discloses a radio interface apparatus mountable on a helmet (equivalent to the safety helmet in claim 5), which belongs to the same technical field as the present application, and more particularly D1 discloses the technical features as follows: the radio interface apparatus (equivalent to the communication apparatus in claim 5) comprises a speaker (equivalent to the speaker enclosure in claim 5) and a microphone (equivalent to the vibration conduction microphone in claim 5), which are transducing means and mounted on the belt-like nape device (equivalent to the support structure) of the helmet (equivalent to the safety helmet in claim 5), so that the microphone comes into contact with the rear of the wearer's head, and the speaker is located close to the wearer's ear (please refer to columns 3-5 in the description and Figs.1-2 of D1). As compared with the D1, the distinguishing technical feature of claim 5 is that "the speaker enclosure comes into contact with a rear of the wearer's head".

D3 (CN2070556U) discloses a multifunctional helmet with dialogue function, which belongs to the same technical field as the present application, and more particularly D3 discloses the technical features as follows: a speaker is located in a lower-rear portion within the helmet, and no earphone is disposed at an ear-hole portion (please refer to page 6 in the description of D3). Thus it can be seen that above distinguishing technical feature of claim 5 over D1 is disclosed in D3, and the function of the above technical features in D3 is the same as that in the present application for solving the technical problem, that is, to transmit a voice. Therefore, a person skilled in the art is capable of applying the above distinguishing technical feature to D1 according to the technical teachings of D3, so as to draw the technical solution of claim 5. Therefore, when compared with D1 and D3, claim 5 neither has prominent substantive features nor represents a notable progress, and is rejected under Paragraph 3 of Article 22 of the China Patent Law for failing to possess inventiveness.

Moreover, the technical feature "transducing means consisting of at least a speaker enclosure" appearing in claim 5 contains ambiguous meaning, which leads to the protection scope of claim 5 indefinite, thus claim 5 is objected to under Paragraph 1 of Rule 20 of the Implementing Regulations of the China Patent Law. The applicant is advised to amend it to "transducing means consisting of a speaker enclosure".

6. Claim 6 is dependent on claim 5, and claim 9 is dependent on claim 6, the additional technical features of claims 6 and 9 are disclosed in D1 (please refer to the comments on claim 5). Therefore, claims 6 and 9 are rejected under Paragraph 3 of Article 22 of the China Patent Law for failing to possess

inventiveness.

7. Claim 7 is dependent on claim 6, and the additional technical feature of claim 7 is: the vibration conduction microphone comprising a housing, a transducer positioned in the housing, and an acoustic isolator also positioned in the housing. However, the above technical feature is a common structure of the vibration conduction microphone, and is well known in the art. Therefore, claim 7 neither has prominent substantive features nor represents a notable progress, and is rejected under Paragraph 3 of Article 22 of the China Patent Law for failing to possess inventiveness.

8. Claims 10-13 are dependent claims, and the additional technical features of claims 10-13 are commonly-used technical means in the art. Therefore, claims 10-13 neither have prominent substantive features nor represent a notable progress, and are rejected under Paragraph 3 of Article 22 of the China Patent Law for failing to possess inventiveness.

9. Claims 19 and 20 are dependent claims. The wording "or the like" appears in claims 19 and 20 respectively, which leads to the protection scope of claims 19 and 20 indefinite, and does not meet the requirements of Paragraph 1 of Rule 20 of the Implementing Regulations of the China Patent Law. The applicant is advised to delete the wording "or the like" in claims 19 and 20.

On the basis of the above reasons, the present application can not be granted according to the present text. The applicant should make a response to the issues presented in this notification one by one within the time limit specified in this notification and make necessary amendments to the specification, so as to speed up the progress of the examination. The applicant should note that the amendments should not go beyond the scope of the disclosure contained in the initial claims and description so as to comply with Article 33 of the China Patent Law; otherwise, the present application will be rejected under Item (4) of Rule 53 of the Implementing Regulations of the China Patent Law.

Examiner: Jingwei GAO
Code: 5802